

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 10, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Oahu

Resubmittal for Forfeiture of General Lease No. S-5707,
All Tree Services, Inc., Lessee, Waimanalo, Koolaupoko,
Oahu, Tax Map Key: (1) 4-1-010:048.

PURPOSE:

Forfeiture of General Lease No. S-5707, All Tree Services,
Inc.

LEGAL AUTHORITY:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION AND AREA:

Portion of Government lands situated at Waimanalo, Koolaupoko,
Oahu, consisting of 5.256 acres, more or less, identified by
Tax Map Key: (1) 4-1-010:048, as shown on the attached map
labeled Exhibit A.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO x

CHARACTER OF USE:

Intensive Agriculture.

TERM OF LEASE:

Thirty (30) years, commencing on September 1, 2004 and
expiring on August 31, 2034.

ANNUAL RENTAL:

\$15,000.00 per annum due in semi-annual payments.

REMARKS:

Background:

The Board at its meeting of February 24, 2006, under Agenda Item D-3, accepted Mr. Kali Watson's, attorney for All Tree Services, request for a deferral. (See Exhibit D).

The subject property was previously encumbered under General Lease No. S-3763 to William and Charlotte Fuller, Lessees. On February 28, 1997, under agenda Item D-24, the Board authorized the forfeiture of the lease due to illegal construction of a church and gazebo, and unauthorized commercial activities (wedding operations) on the premises.

The cancellation of General Lease No. S-3763 was effective on June 15, 1997. A fire occurred on the property sometime in 1997 after the lease was cancelled, which destroyed the structures on the premises.

At its meeting of March 25, 2004, under agenda Item D-1, the Board authorized the sale of a lease at public auction for intensive agriculture purposes. The lease was awarded to All Tree Services, Inc. as the highest bidder for the subject property for a term of thirty (30) years.

All Tree Services, Inc. (All Tree) is currently registered with the Department of Commerce and Consumer Affairs ((DCCA) as a domestic profit corporation, "to engage in the business of tree trimming, cutting, chipping, hauling, cleaning, pruning, shaping, surgery and related business activities." At the time of their application to qualify for the public auction, All Tree presented a plan that showed their intended use of the property for the nursery portion of their business. All Tree was deemed qualified to bid based on its representation that it intended to use the property for intensive agriculture purposes. In its "Application and Qualification Questionnaire Form", under "Business Plan", All Tree states "The land will be used to establish an environmental effective nursery, along with our goal to incorporate our current business of uprooting and replanting various trees to become a core provider in landscaping and generating a profitable income in the years ahead."

Problem:

The City and County zoning for the subject property is Ag-2. Sometime in October or November of 2005, staff began receiving phone calls from neighbors that All Tree was using the site as a baseyard for its tree trimming business. Because the lease references as one standard of compliance with the character of use requirement in the lease, the phrase "and any other agricultural use allowed under the county zoning excluding pasture, raising of animals, and raising of poultry", staff requested the City and County, Department of Planning and Permitting staff (DPP) to conduct a site inspection. DPP advised staff that a baseyard is not permitted under Ag-2 zoning. DPP conducted its inspection of the leased premises and reported that approximately six to seven All Tree vehicles were seen entering and leaving the property on Waikupanaha Street. DPP subsequently advised Land Division in early November 2005 that pursuant to DPP inspections, the property was being operated as a baseyard in violation of the Ag-2 zoning.

Thereupon, pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources and the breach provision contained in General Lease S-5707, All Tree Services, Inc., Lessee, was served a Notice of Default by certified mail dated November 17, 2005, delivered and signed for as received on November 23, 2005, for:

- X Failure to comply with condition No. 12 of General Lease No. S-5707 under "Character of use" which states "The Lessee shall use or allow the premises leased to be used solely for intensive agricultural purposes."

" 'Intensive agriculture' means the cultivation of truck, orchard, flower and foliage crops and any other agricultural use allowed under the county zoning excluding pasture, raising of animals, and raising of poultry."

The NOD offered the Lessee a sixty (60) day cure period to correct the default. This cure period expired on January 22, 2006 (Exhibit B).

Since issuance of the Notice of Default, staff has received a series of phone calls and letters from neighbors stating that All Tree is operating a baseyard for its tree trimming business from the site. Complaints have included the alleged baseyard operation being conducted on the property, noise

disturbance and nuisance resulting from the operation of machinery on the property during early hours of the morning, conducting the commercial sale of kiawe firewood from the property, and complaints of heavy flow of traffic along Waikupanaha Street during early morning hours and early evening hours resulting from numerous vehicles and machinery both entering as well as leaving the All Tree Services Inc., property. As of the date of this submittal, a total of ten (10) complaint letters regarding All Tree Services, Inc., were received from other property owners in the area (See attached letters labeled as Exhibit C).

Staff held a status meeting on January 5, 2006 with All Tree and its principal, Mr. Terrence Rodrigues, and its attorney, Mr. Kali Watson. At the meeting, Mr. Rodrigues was questioned regarding the situs of All Tree's place of business and base of operation for its tree trimming business. Mr. Rodrigues stated that All Tree's place of business and base of operation was the subject leased premises. He noted it was All Tree that had been qualified to bid at the public auction and it was All Tree that was the named lessee. Moreover, Mr. Rodrigues stated that the corporate purpose on file with the DCCA, i.e. "to engage in the business of tree trimming, cutting, chipping, hauling, cleaning, pruning, shaping, surgery and related business activities" was consistent with the requirement for intensive agriculture set forth in the lease. He produced photos of portions of the property that were in cultivation. He also noted that his improvement plans, which included a parking lot with 24 stalls, were approved by the Department. Additional improvement plans, which included a second office and a second parking area, had been submitted to staff for approval on December 15, 2005. These were reviewed briefly at the meeting, however, All Tree noted that it intended to revise the plans, and planned to eliminate the second office and second parking area and would resubmit the additional improvement plans at a later date. At the meeting, staff noted that its inspection of the property did indeed confirm that portions of the leased premises were in cultivation. However, the issue was whether the non-nursery portions of the business, which included going to off-premises sites to do tree trimming, pruning, removal, etc., were consistent with the "intensive agriculture" character of use and the Ag-2 zoning, as opposed to being a baseyard for the off-premises portion of All Tree's business.

After the ending of the sixty (60) day cure period on January 22, 2006, staff received phone calls and two letters from Mr. Kali Watson, dated January 23 and 24, 2006 (see Exhibit D) indicating that the issues which led to the Notice of Default had been resolved. Mr. Watson noted that he had arranged for an inspection with DPP and believed that DPP would verify that a subsequent inspection did not result in a finding of a violation for operation of a baseyard. In response to questions from staff about the current situs of All Tree's baseyard for its tree trimming business, Mr. Watson wrote on January 24, 2006 that "Mr. Rodrigues has a base yard on private property where he stores said equipment. Some of his workers that have CDL or commercial drivers licenses each take their trucks home, which is allowed under the law. Additional equipment is also kept on the various job sites." Mr. Watson elaborated in a phone call that drivers of the All Tree Services trucks which were being used for the tree trimming portion of the business were told not to park nor bring these vehicles back onto the lease property.

In his letter of January 24, 2006, Mr. Watson states that "Mr. Rodrigues does have some equipment on site, but this is used for the nursery business. He has a chipper, a crane truck and several little trucks, which he uses in his nursery business."

Staff concurs that a crane truck and a chipper may be considered to be consistent with intensive agricultural use of the property.

Staff inquired of Mr. Watson regarding more specifics with respect to the statement in his letter that "Mr. Rodrigues has a base yard on private property where he stores said equipment." Mr. Watson advised that this property was under the Department of Hawaiian Home Lands (DHHL) in Kapolei. Staff confirmed with Mr. Noel Akamu of DHHL that DHHL was working with Mr. Watson to have All Tree approved as a sublessee on DHHL property.

Staff spoke with DPP staff after the ending of the cure period on January 22, 2006 about whether the property was continuing to be used as a baseyard. Mr. David Kalai noted that at the inspection arranged by Mr. Watson, he indeed found that the property no longer appeared to be a baseyard. However, subsequent inquiries to other DPP staff, including Mr. Bill Kupau, Mr. Colin Ishikawa and Branch Chief Mr. Russell Kaneshiro, indicated that DPP was reluctant to inspect the

property because of a lack of staffing and because this was a State-managed lease; DPP preferred that the State conduct its own inspections.

A site inspection of the property conducted by Land Division staff on February 3, 2006, during the period from 5:50 a.m. to 7:33 a.m., revealed that in addition to the vehicles required for the nursery operation of their business ("a chipper, a crane truck and several little trucks") the following parked vehicles and machinery were observed on the property:

- 5 All Tree Services, Inc. trucks, consisting of 3 large trucks, and 2 boom crane trucks.
- 1 Kiawe Hawaii truck located alongside of 3 stacks of chopped kiawe wood.
- 1 tractor/back-hoe machinery.

In addition to the above parked vehicles, various size All Tree vehicles and machinery were observed entering and leaving the premises during the period of the inspection (see attached photos labeled as Exhibit E).

A second site inspection of the property was conducted by staff on February 6, 2006, during the period of 5:30 p.m. to 6:10 p.m. The inspection found the following parked vehicles and machinery in addition to those cited as necessary for the nursery operation (see attached photos labeled as Exhibit F):

- 2 All Tree Services, Inc. trucks w/ladder buckets.
- 1 tractor/back-hoe machinery.
- 1 All Tree Services, Inc. dump truck filled with wood chippings.
- 1 kiawe wood splitting machine situated alongside of 3 stacks of chopped kiawe wood.

A third site inspection was conducted on February 12, 2006 at 6:40 a.m. The inspection found the following parked vehicles and machinery:

- 3 wood chippers (2 in excess of that stated as necessary for the nursery)

- 1 crane (or boom truck) (necessary for nursery)
- 2 big trucks
- 3 small trucks (necessary for nursery)
- 1 truck with Kiawe Hawaii on front door

In addition, another letter dated February 6, 2006 with photographs was received from a neighbor, alleging use as a baseyard.

Analysis:

As of the date of preparation of this submittal, February 28, 2006, the current status of all lease compliance items is as follows:

RENT: The Lessee is current with all rent obligations.

INSURANCE: The Lessee has posted the required liability insurance policy.

PERFORMANCE BOND: The Lessee has posted the required performance bond. This bond is in the form of a surety bond with Island Insurance Company, Ltd., which will expire on March 4, 2006.

CONSERVATION PLAN: The Lessee is currently working with Sheila Cox of the Natural Resources Conservation Service (NRCS) in the preparation of their conservation plan.

Since the issuance of the lease to All Tree Services, Inc. in August 13, 2004, only one Notice of Default letter dated January 21, 2005, was sent to the Lessee for delinquent performance bond and delinquent liability insurance. Both of these issues have since been resolved.

Conclusion:

Staff concedes that a portion of the property is being used for intensive agriculture. However, the primary purpose of the leased premises appears to be for the continued use of the property for All Tree's baseyard operation, i.e. "for the tree trimming, cutting, chipping, hauling, cleaning, pruning, shaping, surgery and related business activities."

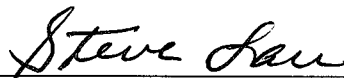
March 10, 2006

Based on the information mentioned above, staff recommends that General Lease No. S-5707 to All Tree Services, Inc. be cancelled.

RECOMMENDATION: That the Board:

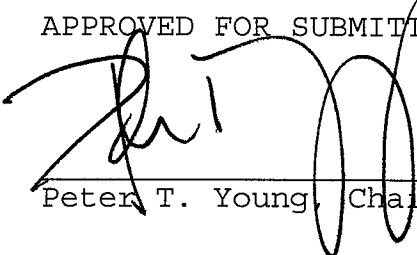
1. Authorize the cancellation of General Lease No. S-5707 in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under General Lease No. S-4298 as liquidated damages;
3. Terminate the lease and all rights of Lessee and all obligations of the Lessor effective as of March 10, 2006, provided that any and all obligations of the Lessee which have accrued up to said effective date, or which are stated in the lease to survive termination, shall endure past such termination date until duly fulfilled, and further provided that Lessor reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under General Lease No. S-5707 and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,



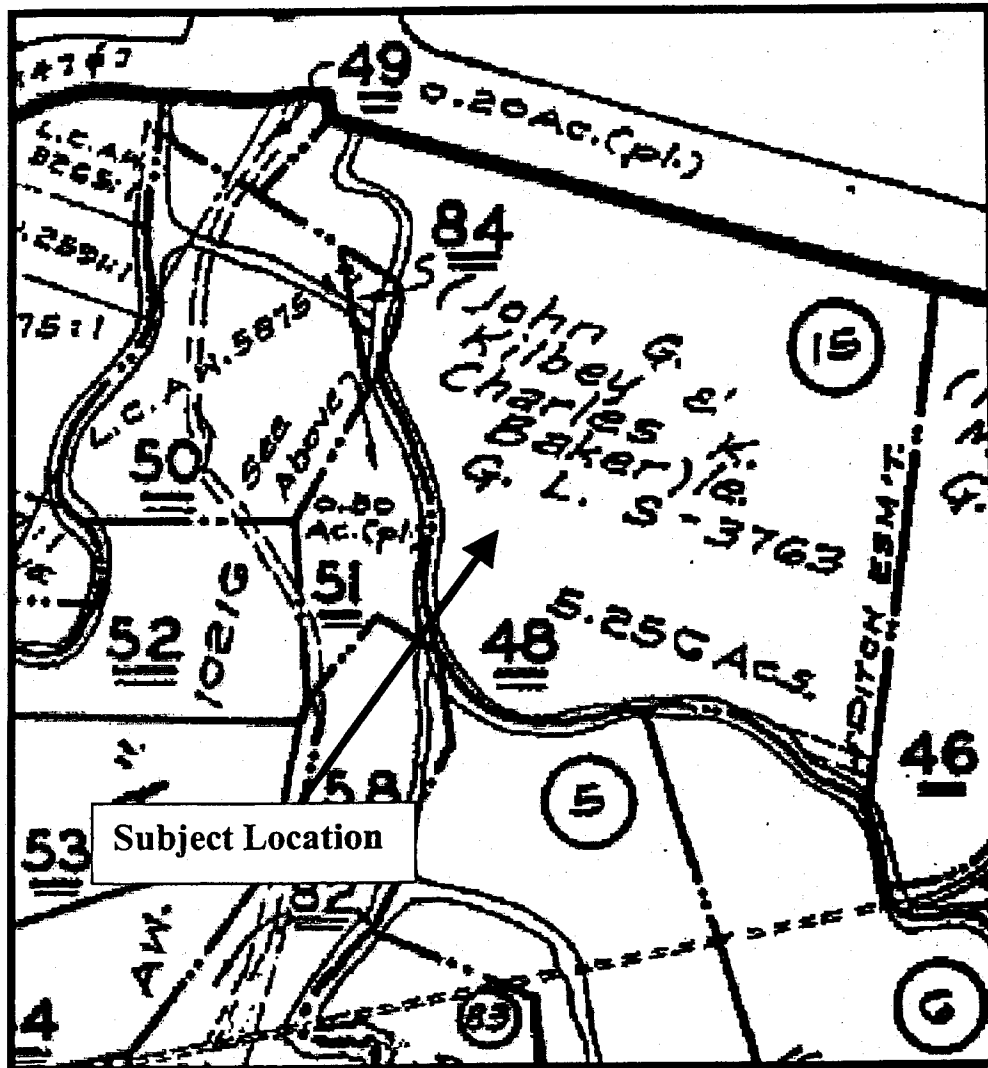
Steve Lau
Land Agent

APPROVED FOR SUBMITTAL:



Peter T. Young, Chairperson

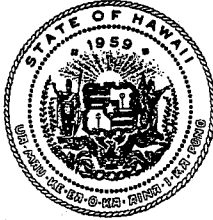
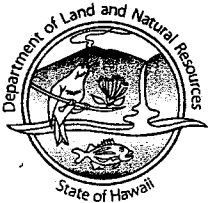




TMK (1) 4-1-010:048

EXHIBIT A

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

NOV 17 2005

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

CERTIFIED MAIL

7001 2510 0002 9389 5608
All Tree Services, Inc.
P.O. Box 36
Waimanalo, Hawaii 96795

Dear Lessee:

Subject: General Lease No. S-5707, All Tree Services, Inc.,
Situat Waimanalo, Koolaupoko, Oahu,
Tax Map Key: (1) 4-1-010:048

NOTICE OF DEFAULT

This letter is to notify you that the Department of Land and Natural Resources, Land Division, has received notification from the City and County of Honolulu that the subject property is being used as a baseyard. We believe this is in connection with your tree trimming business.

Pursuant to the authority granted me by the Board of Land and Natural Resources at its meeting of January 11, 1980, and the breach provision contained in General Lease No. S-5707, you are hereby served a Notice of Default on said lease for failure to do the following:

X Failure to comply with condition No. 12 of General Lease No. S-5707, "Character of use", which states "The Lessee shall use or allow the premises leased to be used solely for intensive agricultural purposes."

"Intensive agriculture" means the cultivation of truck, orchard, flower and foliage crops and any other agricultural use allowed under the county zoning excluding pasture, raising of animals, and raising of poultry.

The City and County zoning for your property is Ag-2. The City and County has advised that a baseyard is not a permitted use pursuant to Ag-2 zoning. You must not use the subject property as a baseyard.

EXHIBIT "B"

You are hereby given sixty (60) days from the date of receipt of this letter to cure the above-described breach.

Your failure to act on the above matter will result in the following:

1. Cancellation of General Lease No. S-5707.
2. Retention of all sums heretofore paid under General Lease No. S-5707 as liquidated damages.
3. Termination of all your rights and obligations under General Lease No. S-5707.
4. Forfeiture of your lease performance bond.

We therefore urge your fullest cooperation. Should you have any questions, please contact our Oahu District Land Branch at (808) 587-0433.

Sincerely,



Peter T. Young
Chairperson

c: Land Board Member
Central Office
Fiscal Office
Security Interest Holder
Bond Holder

54737

2-19-06

Mr. Peter Young
Chairperson
Board of Land & Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RECEIVED
LAND DIVISION
2006 FEB 24 A 10:21
DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII
RECEIVED
FEB 22 A 8:26
DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Young,
I have been a resident and landowner in Waimanalo for over 25 years. Over the past 5 years, I have noticed a significant increase in commercial contractors on Agriculture zone lots throughout Waimanalo, on both state and private land. In these Agricultural zones, I am aware of business contractors such as Masonry, Electrical, General, and Tree Pruning Contractors. Additionally, there are also several roll-off trucking companies, all of which are illegal businesses on Agricultural land. This needs to be stopped immediately before Waimanalo becomes a Commercial Industrial Park.

One of the more recent illegal operations is at 41-960 Waikupanaha Street. This is Agriculture Lease State land, which was originally leased for the purposes of developing a tree farm. It has become a base yard for All Tree Services, All Roll-Off Trucking, All Demolition & Kiawe Hawaii under the name of All Tree Farm. They have constructed a large paved parking area for over 20 trucks/vehicles. Installed on 4 large telephone poles surrounding the parking area are bright Halogen lights and security cameras (Photos 1, 2 & 3). In my opinion, this is a blatant disregard for the proper use of Agricultural land. The run-off of contaminants from trucks and equipment into the ground and nearby streams is unacceptable. The leaseholder has left a mess at his previous location at Rock Road Egg Farm (Photo 4). We do not want a repeat of this in our own neighborhood.

The pictures provided were taken during the week of Feb. 14-18, 2006.

Respectfully,


Steve Nimz
41-982 Waikupanaha Street
Waimanalo, HI 96795

#1

EXHIBIT "C"



#1



#2



#3



#4

50818

Joseph A. Gomes
Attorney at Law

767 Kailua Road, Suite 202
Kailua, Hawaii 96734
808-262-5859
jagomes@juno.com

RECEIVED

05 NOV -7 A8:13

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

November 4, 2005

**Via Certified Mail;
Return Receipt Requested**

Peter T. Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, Hawaii 96809

**Re: General Lease No. S-5707 between the State of
Hawaii and All Tree Services, Inc. ("Lease")**

Dear Mr. Young,

I represent Quality Turfgrass, Inc. Quality Turfgrass is located at 41-951 Waikupanaha Street, Waimanalo, Hawaii, across the street from TMK (1)4-1-10:48, the real property that is the subject of the Lease ("Site").

The lessee, All Tree Services, Inc., has improperly converted the Site into an industrial parking lot for its heavy trucks and equipment, and as a dump for large tree logs and cuttings (See the enclosed photographs). The Site is not being used for intensive agricultural purposes, the purpose for which the Lease was granted, and water-use practices at the Site cause runoff that likely harms a nearby stream. In addition, All Tree's large trucks create considerable noise and on many occasions have blocked traffic on Waikupanaha Street fronting Quality Turfgrass.

The present use of the Site is in clear violation of the Lease, and applicable laws regulating zoning and land use in the area. This prohibited use of the Site is also causing a detrimental impact on Quality Turfgrass, its customers, and its employees.

As the Site's landlord, we respectfully request your immediate action to correct the ongoing Lease violations and the unlawful use of the Site by All Tree.

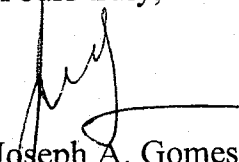
#2

EXHIBIT "C"

Peter T. Young
November 4, 2005
page two

Thank you in advance for your prompt response to our request.

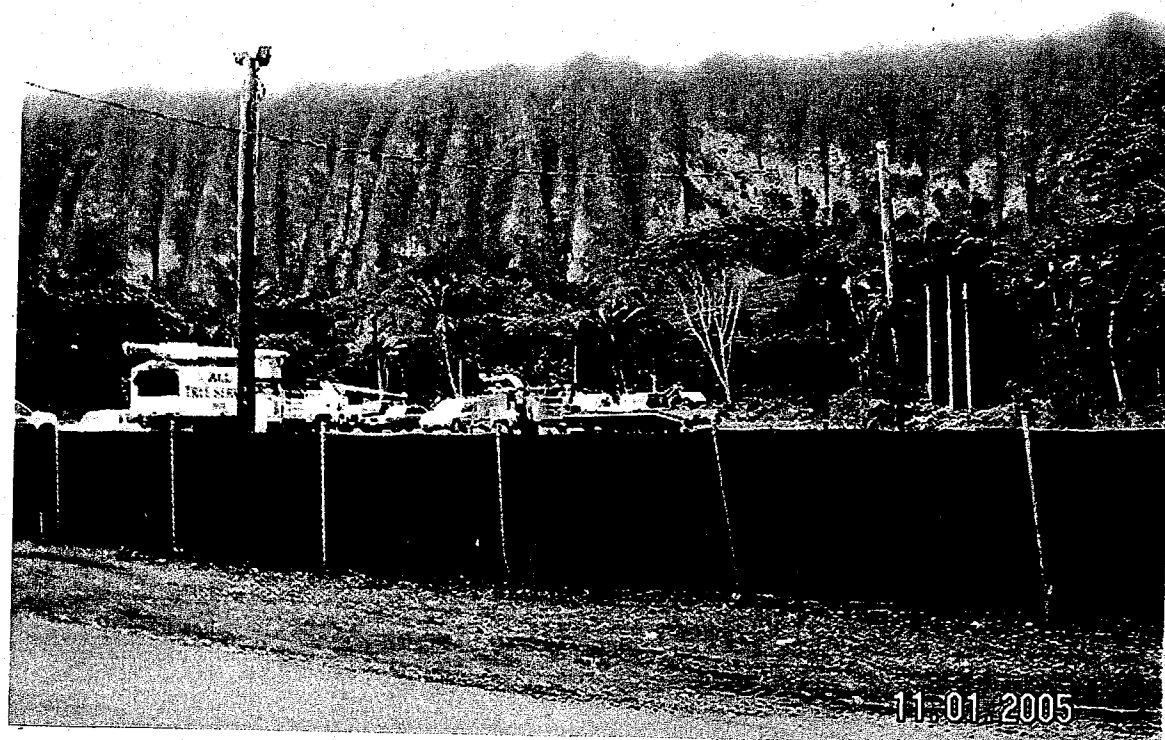
Yours truly,

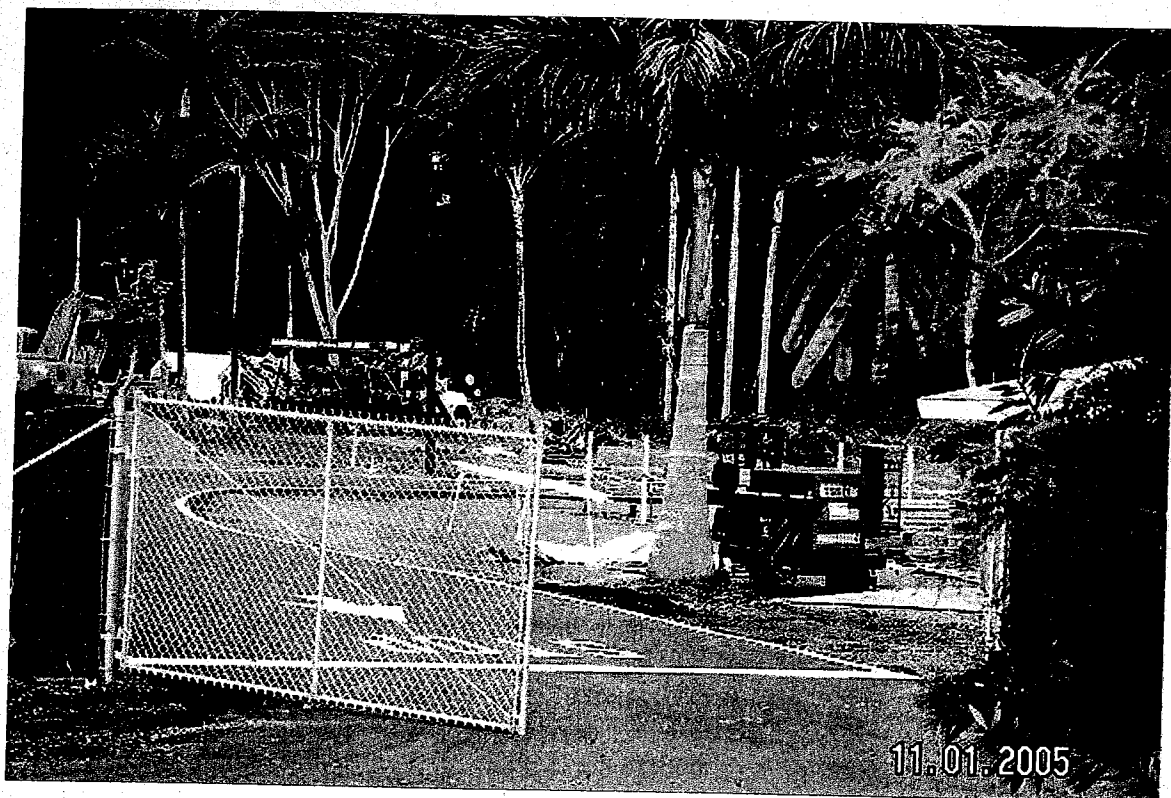


Joseph A. Gomes

enclosures

cc: Quality Turfgrass, Inc.





54409

GLS-5207

January 17, 2006

Mr. Peter Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RECEIVED

06 JAN 20 A8:24

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Young:

I am a resident of the Waimanalo farm lots area, and live in the vicinity of the DLNR lease lot occupied by All Tree Services at 41-960 Waikupanaha St.

I am writing to inform you that All Tree has apparently been using this lot as a baseyard for their tree trimming business. I have often observed many large tree trimming trucks and equipment parked on the lot.

I am concerned because this activity is not in keeping with the agricultural nature of the area, and may have caused runoff from truck and equipment parking and cleaning to contaminate the soil and the nearby stream.

Sincerely,



E. Ohta
41-670 Kumuhau St.
Waimanalo, HI 96795

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2006 JAN 23 A 10:26

RECEIVED
LAND DIVISION

#3

EXHIBIT "C"

gls 5707 54440

RECEIVED

06 JAN 20 A8 23

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

January 17, 2006

Mr. Peter Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

Dear Mr. Young:

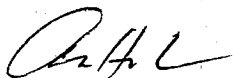
I am a resident of the farm lots area in Waimanalo. I have noticed an increase in the industrial uses of agriculturally zoned property which includes DLNR & DOA land as well as fee simple lots.

One example is a DLNR lot occupied by All Tree Services at 41-960 Waikupanaha St., directly across from Quality Turfgrass. It is apparently being used as a baseyard for a tree trimming business. I have observed many large trucks and tree trimming equipment on the lot.

This use is not in character with zoning of the area, which is designated for intensive agriculture only and may be a violation of an awarded DLNR lease.

The activities of a tree trimming baseyard may also have negative effects on the environment of our neighborhood. I would appreciate it if this matter was investigated and if necessary, curtailed.

Sincerely,



Annette Lee
41-208 Hihimanu Street
Waimanalo, Hawaii 96795

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2006 JAN 23 A 10: 26

RECEIVED
LAND DIVISION

#4

EXHIBIT "C"

54444

965-5707

January 17, 2006

Mr. Peter Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RECEIVED

06 JAN 20 A8 24

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Young:

I am a resident of the Waimanalo farm lots area, and live in the vicinity of the DLNR lease lot occupied by All Tree Services at 41-960 Waikupanaha St.

I am writing to inform you that All Tree has apparently been using this lot as a baseyard for their tree trimming business. I have often observed many large tree trimming trucks and equipment parked on the lot.

I am concerned because this activity is not in keeping with the agricultural nature of the area, and may have caused runoff from truck and equipment parking and cleaning to contaminate the soil and the nearby stream.

Sincerely,



41-755 Kaula Kana St

Waimanalo, HI 96795

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

2006 JAN 23 A 10:26

RECEIVED
LAND DIVISION

#5

EXHIBIT "C"

5442E

January 17, 2006

Mr. Peter Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809

RECEIVED

'06 JAN 19 AM 8:04

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Dear Mr. Young:

I am a resident of the Waimanalo farm lots area, and live in the vicinity of the DLNR lease lot occupied by All Tree Services at 41-960 Waikupanaha St.

I am writing to inform you that All Tree has apparently been using this lot as a baseyard for their tree trimming business. I have often observed many large tree trimming trucks and equipment parked on the lot.

I am concerned because this activity is not in keeping with the agricultural nature of the area, and may have caused runoff from truck and equipment parking and cleaning to contaminate the soil and the nearby stream.

Sincerely,



DAVID W. THOMPSON
41-936 KAKAINA ST.
WAIMANALO, HI 96795

#6

EXHIBIT "C"

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

2006 JAN 20 PM 1:46

RECEIVED
LAND DIVISION

54401

MCA TROPICALS
41-640 MAHAILUA STREET
WAIMANALO, HAWAII 96795
CELL#: (808) 479-2479
E-MAIL: MATTCHUN@NEXTEL.BLACKBERRY.NET

RECEIVED
LAND DIVISION
2006 FEB -8 P 2:57
06 FEB -8 A 7:56
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII
RECEIVED
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Mr. Peter Young
Chairperson, Department of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Peter Young,

Subject: Illegal Base Yard on State Leased Agriculture Land

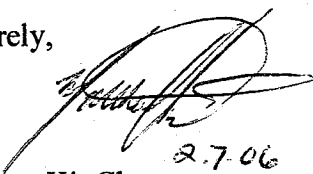
My father, Clyde L.K. Chun had owned and operated 9.5 acres of land in Waimanalo for over 45 years. Since his passing I have taken over the family business and continue to enjoy operating a successful tropical cut flower farm in the Waimanalo countryside.

Recently, All Tree Services Inc. had obtained a parcel of state leased land for the purpose of storing trucks and equipment. The company also cleans their trucks on site, where oil, grease, diesel, paint, and other debris are allowed to pollute the land. All Tree Services is not an agriculture related business, but operates to "engage in the business of tree trimming, cutting, chipping, hauling, cleaning, pruning, shaping, surgery and related business activities". All Tree Services Inc. also has an interest in the hauling of debris from construction yards, and have been seen hauling cement, rebar, and other related materials onto the state leased land. These acts that are occurring on state leased land are a clear violation of the lease and needs to be corrected. I have enclosed a photograph of All Tree Services Inc. parking lot of trucks and equipment. The picture was taken on February 6, 2006 at 6:00pm. There were at least 8 vehicles and a chipper on the lot at the time, but I have seen more on other occasions.

Companies such as All Tree Services not only pollute the environment but also deprive "true" agribusiness from operating successfully. The "short term" gain that All Tree Services Inc. achieves for its own fulfillment, can cause long term damage to the State of Hawaii's environment and economy.

Please look into this problem of a non-agriculture businesses operating on land designated and zoned for agriculture purposes? We must preserve our agriculture lands to ensure that our children are able to enjoy the beauty of the countryside. If we do not act now our country will no longer be country but a landscape of industrial disorder.

Sincerely,



Matthew Kit Chun

#7

EXHIBIT "C"



54710

41-984 Kakaina Place
Waimanalo, Hawaii 96795
(808) 259-7451 FAX (808) 259-9318
Email: waa@hawaii.net
<http://www.waimanaloassociation.org>

RECEIVED

2006 FEB 22 P 3: 26

Waimanalo Agricultural Association

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

February 17, 2006

Peter Young, Chairperson
Board of Land and Natural Resources
State of Hawaii
P.O. Box 621
Honolulu, HI 96809


Dear Mr. Young:

The Waimanalo Agricultural Association consists of farmers who take their business very seriously and are genuinely concerned about the abuse of agriculturally zoned lots. We do not take kindly to people acquiring leases from DLNR or DOA under false pretenses to use for industrial purposes.

One example is a DLNR lot occupied by All Tree Services at 41-960 Waikupanaha St., directly across from Quality Turfgrass. It is apparently being used as a baseyard for a tree trimming business. Many large trucks and tree trimming equipment have been observed on the lot and it seems to be a parking lot for this questionable "agriculture" enterprise. This use is not in character with zoning of the area, which is designated for intensive agriculture only and is a violation of an awarded DLNR lease. The activities of a tree trimming baseyard may also have negative effects on the environment of our neighborhood.

We urge the Department of Land & Natural Resources to revoke any lease that is in violation with the terms agreed upon when applying and obtaining the land. Abiding by the terms of a lease ensures that everyone is equally in compliance and will help to keep agricultural lands safe from the rampant misuse of prime agricultural land.

Sincerely,



Clifford Migita
President, WAA

*Dedicated to the preservation and perpetuation of
agriculture in Hawaii.*

8
EXHIBIT "C"

B4769

WEB ONE, INC. dba

THE PLANT PLACE

RECEIVED
LAND DIVISION

In the shade of the Koolaus

41-1009 KAKAINA STREET/ WAIMANALO, HI 96795/ PHONE: (808) 559-7226 FAX: (808) 559-9292/E-MAIL: theplantplace@hawaii.rr.com

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

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& NATURAL RESOURCES
STATE OF HAWAII

February 17, 2006

Mr. Peter Young
Chairperson
Board of Land and Natural Resources
State of Hawaii
P. O. Box 621
Honolulu, Hawaii 96809

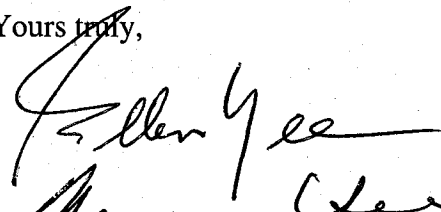
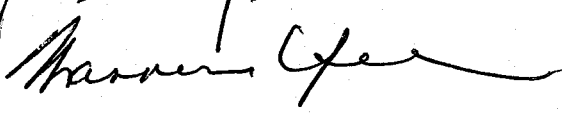
Dear Sir:

We have been residents of Waimanalo since 1961 and lessees of the Department of Land and Natural Resources since 1964. During that time we have seen Waimanalo change from a quiet rural farming community to a much desired location for "gentlemen farmers" and unfortunately, for even light industrial activities.

Agricultural zoned parcels are being used for the storage/parking of trucks of all sizes and uses and other heavy equipment, for masonry companies, tree trimming operations, and other non agricultural uses. Some of these activities occur on DLNR lands. One of those parcels is occupied by All Tree Services which has been more involved in the storage and grinding of debris from their tree trimming business than in farming. Their previous location on Kakaina Street is in very bad condition still filled with massive amounts of large stumps and green trash.

Prime agricultural lands need to be used for legitimate agricultural production.

Yours truly,

9

EXHIBIT "C"

54707



RECEIVED
Hawaii Farm Bureau
FEDERATION
LAND DIVISION

2343 Rose Street, Honolulu, HI 96819
PH: (808) 848-2074; Fax: (808) 848-1921

2006 FEB 22 P 3:26

email: info@hfbf.org

RECEIVED

'06 FEB 21 A8:18

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

February 15, 2006

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Mr. Peter Young
Chair, Dept. of Land and natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Dear Mr. Young,

My name is Dean Okimoto. I am President of the Hawaii Farm Bureau which represents over 1600 farm families across the Hawaiian Islands. I also own and operate Nalo Farms, Inc. in Waimanalo, employing 24 people on my farm for the past 22 years. Previous to that my father, Charles Okimoto had farmed in Waimanalo since 1953.

Recently, All Tree Services has obtained a parcel of state lease land, zoned for agriculture. This past Sunday, February 12, 2006, I toured the valley with Dept. of Agriculture Chair Sandy Kunimoto, Deputy Director Duane Okamoto, Tom Staton of Quality Turfgrass, and several other prominent farmers from Waimanalo, and we saw 7 trucks and tree trimming equipment stored on the All Tree Service parcel. I have heard that they regularly wash these vehicles and maintain them on the land, possibly polluting the land with oil, gas and grease. They have also been seen hauling debris from construction work onto this property and storing it. I also know that they have stored debris from jobs at a previous site in Waimanalo and have left it for the property owners to clean up. I do know that they submitted a business plan to engage in agricultural activity, yet they continue to use the land for these other illegal activities.

Companies such as these, circumvent the true intent of trying to keep these lands in agricultural production. Even worse they prevent other "true" farmers from having access to these ag lands and truly preserving the integrity of the land and agriculture.

As a farmer, and representing the farm families of the Hawaii Farm Bureau Federation, I strongly object to these types of operations on ag lands and request that your Department look into this matter and do something about putting these types of land into the hands of true farmers and preserve the integrity of these agricultural lands.

I have been involved in the process of selecting qualified bidders for these types of properties, so I am aware of the process, but somehow we must figure out how to select and put real farmers onto these lands. The Waimanalo farmers are truly committed to doing this, and maybe some sort of dialogue with your Dept., to help the Dept., achieve putting true agricultural pursuits on these lands, can be started.

#10

EXHIBIT "C"

Hawaii Farm Bureau Federation
Letter to Mr. Peter Young, DLNR
Page 2 - 2/15/06

You may reach me at 259-7698 or my cell at 479-1797, if you have any questions.

With Respect and Sincerity,

A handwritten signature in black ink, appearing to read "Dean J. Okimoto", with a stylized flourish at the end.

Dean J. Okimoto
President

PAVEY HOKE & WATSON, LLC

A Limited Liability Law Company

JUDITH ANN PAVEY
RICHARD L. HOKE, JR.
KALI WATSON

FLORENCE F. PAJARDO
Paralegal

February 17, 2006

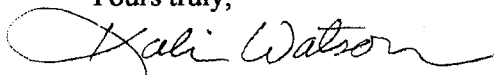
Mr. Russell Tsuji
Land Division Administrator
Dept. of Land & Natural Resources
State of Hawaii
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96809-0621

Re: Rescheduling DLNR Board Agenda Item re All Tree Services, Inc.

Dear Mr. Tsuji,

My client Terry Rodrigues of All Tree Services, Inc. appreciates you extending him the courtesy of rescheduling the Board Agenda Item re All Tree Services, Inc. from February 24 to March 10, 2006. As explained to you, he and his family will be on the mainland from February 23 to 27 on a previously planned family vacation. Because of the seriousness of what is before the DLNR Board re the cancellation of his lease, he wanted to be present. Obviously, because of the potential forfeiture of his entire financial investment in the Waimanalo property, it would only be fair to allow him the opportunity to be personally present to address the Board. He will definitely be there at the March 10 meeting. He looks forward to answering the claims in the Notice of Default dated November 17, 2005.

Yours truly,



Kali Watson

EXHIBIT "D"

PAVEY HOKE & WATSON, LLC

A Limited Liability Law Company

JUDITH ANN PAVEY
RICHARD L. HOKE, JR.
KALI WATSON

FLORENCE F. PAJARDO
Paralegal

January 23, 2006

Mr. Steve Molmen
State of Hawaii
DLNR
Kalanimoku Building
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96809-0621

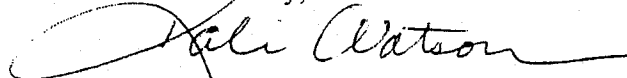
Subject: General Lease No. S-5707, All Tree Services, Inc.,
Notice of Default

Dear Mr. Molmen,

This letter is to address the issues raised in DLNR's Notice of Default dated November 17, 2005 to All Tree Services, Inc. As we discussed at our meeting on January 5 at your conference room, the said leased area is not being used as a baseyard. Any and all equipment presently on site are needed for my client's nursery. The back parking lot and warehouse originally on his construction plans have been eliminated. There is a single office, not two separate offices. While still in the setup process, a significant area has already been cleared and planted with various trees and plants. We provided you with photographs showing all this work. I believe that you and Mr. Lau have also visited the site to verify this. If you would like an additional tour of the site, please let me know.

As to the City & County Enforcement Branch headed by Mr. Russell Kaneshiro verbal description of the site being used as a baseyard, we have discussed the matter with them and feel it has been resolved. Mr. Kaneshiro's inspector David Kalai visited the site and was given a tour along with an explanation of the nursery plans which established that intensive agriculture was being done on the site. I've also had several discussions with Mr. Kaneshiro and believe that he will be contacting your office to verify his finding that there is no baseyard presently being operated at this site. If you should need further evidence or would like to discuss the matter further, please let me know. If the matter is being set for a contested case hearing or being referred to the Attorney General's Office, please advise me of such.

Yours truly,



Kali Watson

EXHIBIT "D" 77

PAVEY HOKE & WATSON, LLC

A Limited Liability Law Company

JUDITH ANN PAVEY
RICHARD L. HOKE, JR.
KALI WATSON

FLORENCE F. PAJARDO
Paralegal

January 24, 2006

Mr. Steve Molmen
State of Hawaii
DLNR
Kalanimoku Building
1151 Punchbowl Street, Room 220
Honolulu, Hawaii 96809-0621

Subject: General Lease No. S-5707, All Tree Services, Inc.,
Notice of Default

Dear Mr. Molmen,

Per your request, this letter is to confirm that All-Roll Off Services and All Tree Services tree trimming businesses have equipment, which are not kept or stored at the Waimanalo property in violation of the terms or conditions under General Lease No. S-5707. The property is not being used as a base yard for these outside businesses. Mr. Rodrigues has a base yard on private property where he stores said equipment. Some of his workers that have CDL or commercial drivers licenses each take their trucks home, which is allowed under the law. Additional equipment is also kept on the various job sites.

The DLNR property is used exclusively for intensive agriculture, in particular, as a nursery. Mr. Rodrigues does have some equipment on site, but this is used for the nursery business. He has a chipper, a crane truck and several little trucks, which he uses in his nursery business. If you would like to discuss the matter further, please let me know.

Yours truly,

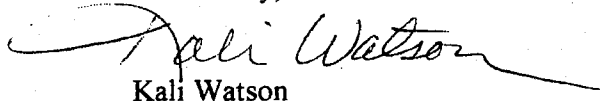
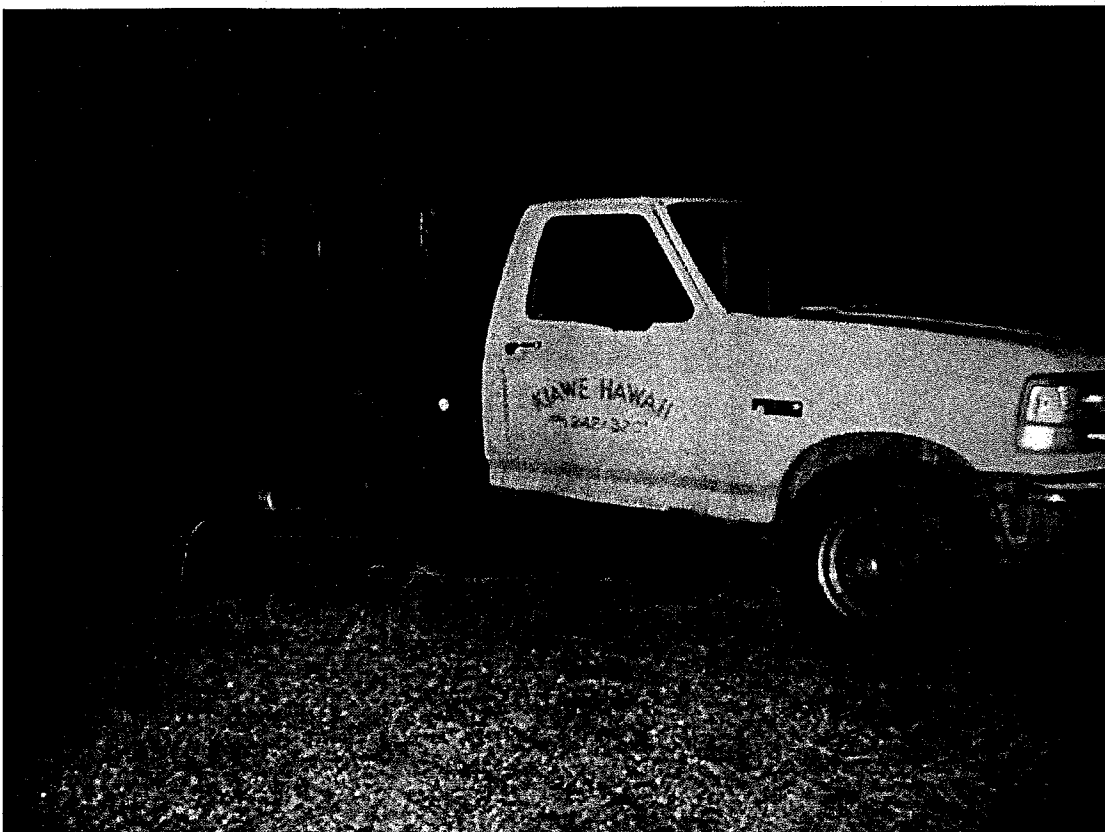

Kali Watson

EXHIBIT "D"



Kiawe Hawaii Truck

2/3/06



2/3/06

EXHIBIT "E"



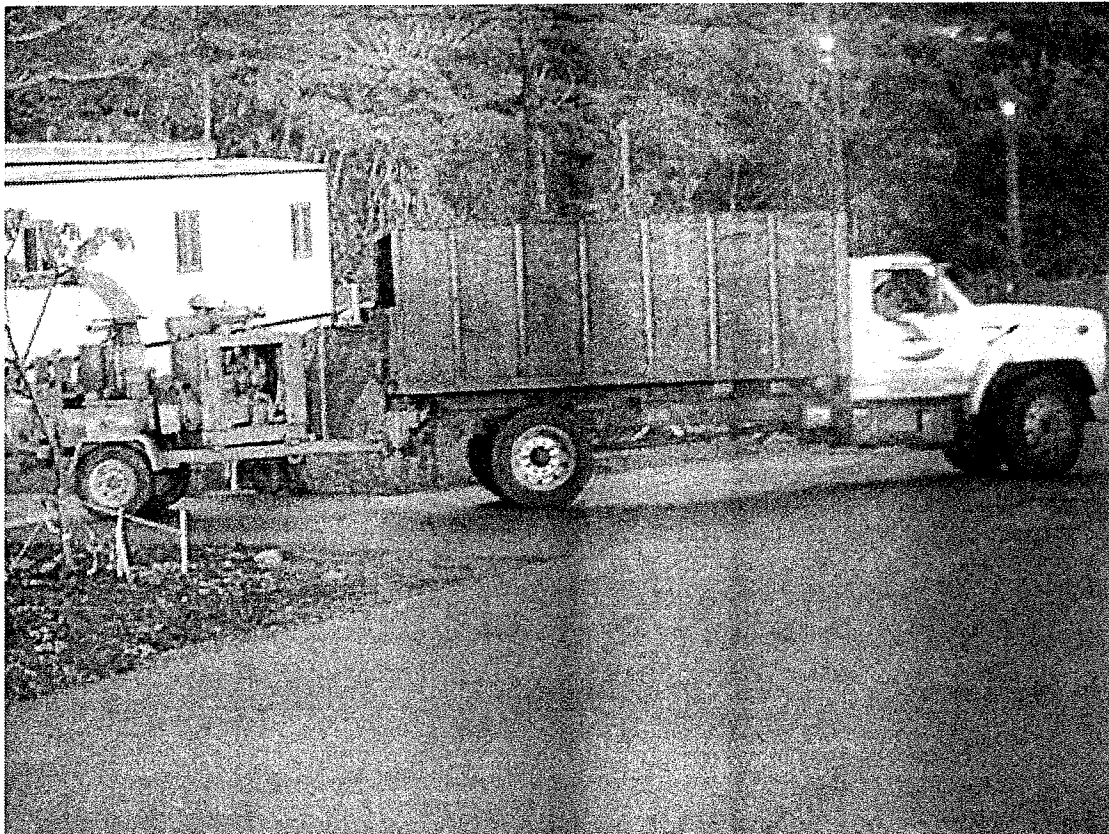
*All Tree Service Truck Leaving
Property*

*2/3/06
7:20 AM*

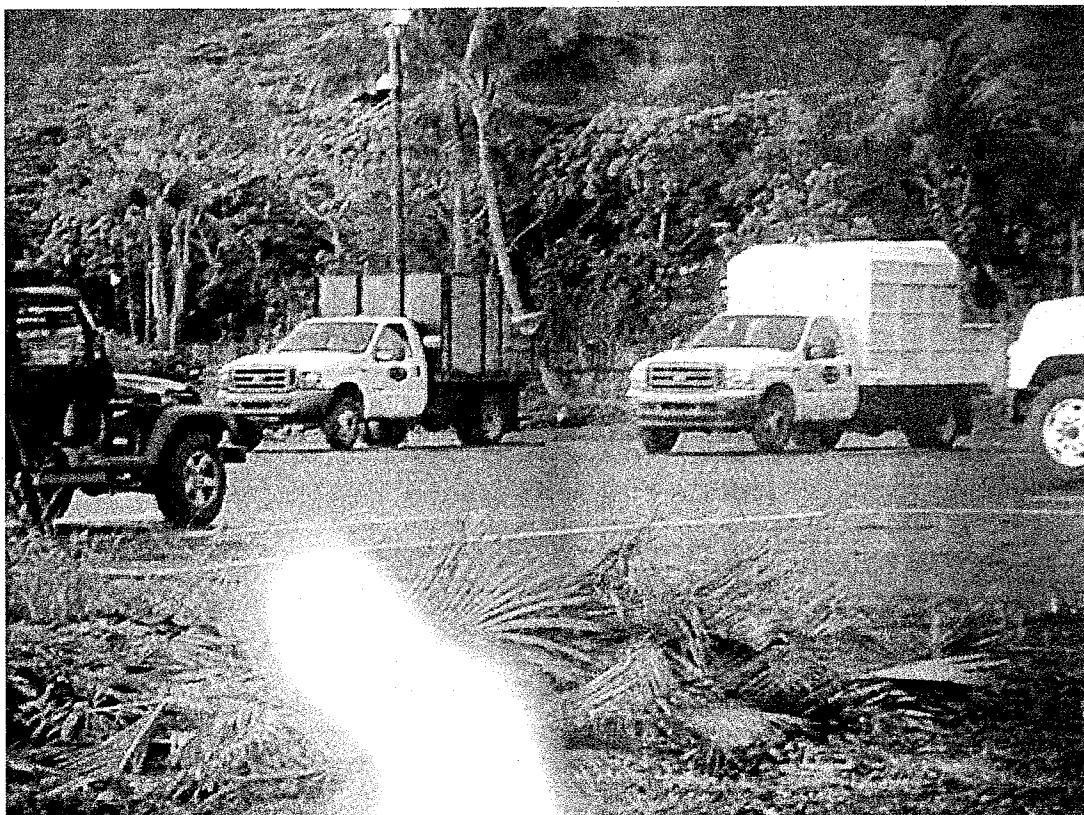


*All Tree Service Truck
Leaving Property @ 7:20 AM*

2/3/06



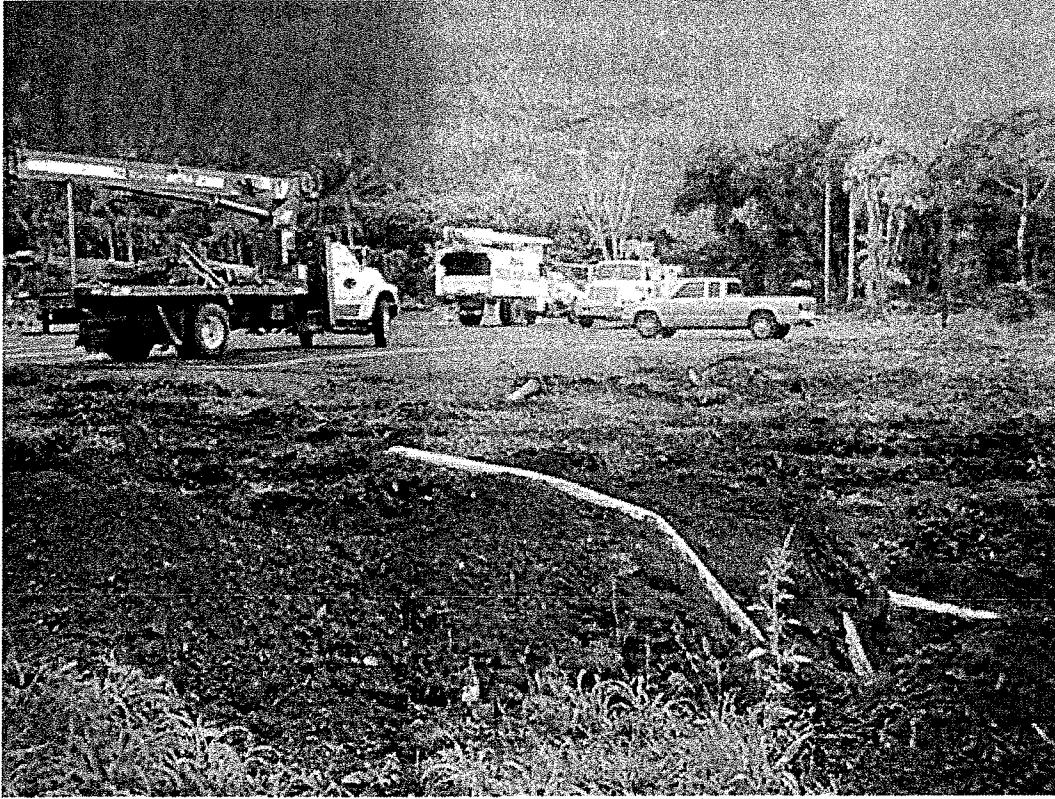
All Tree Service Truck Leaving 2/3/06



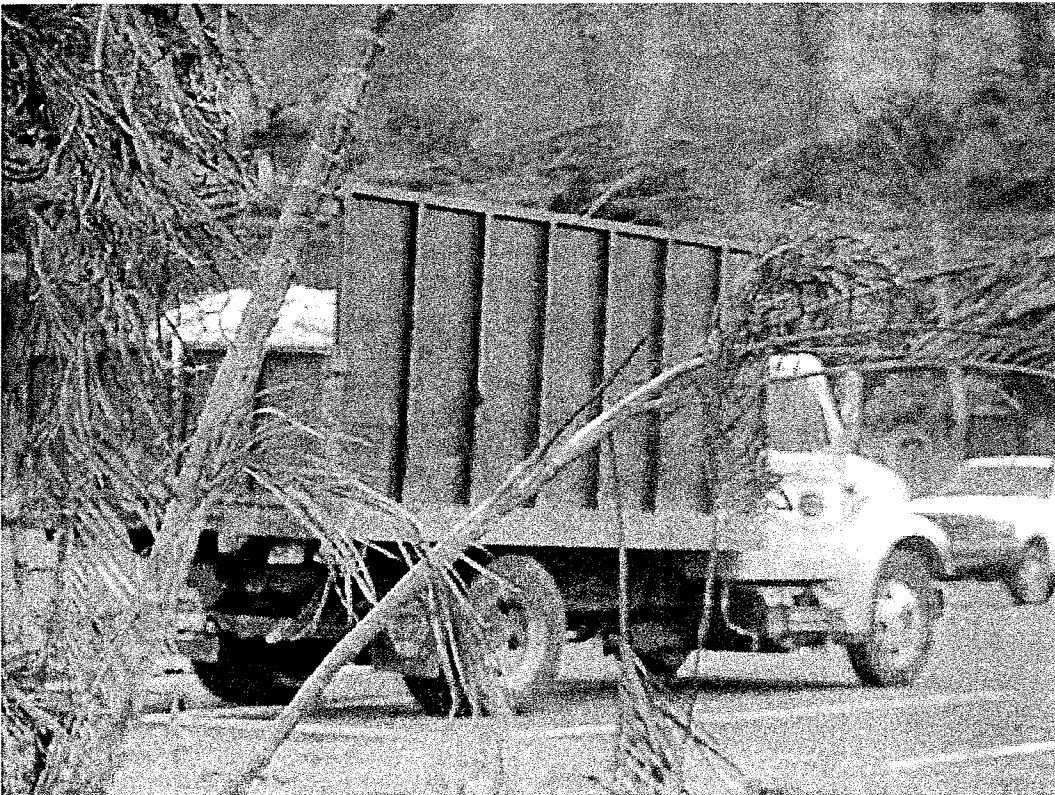
Vehicles parked on property 2/3/06



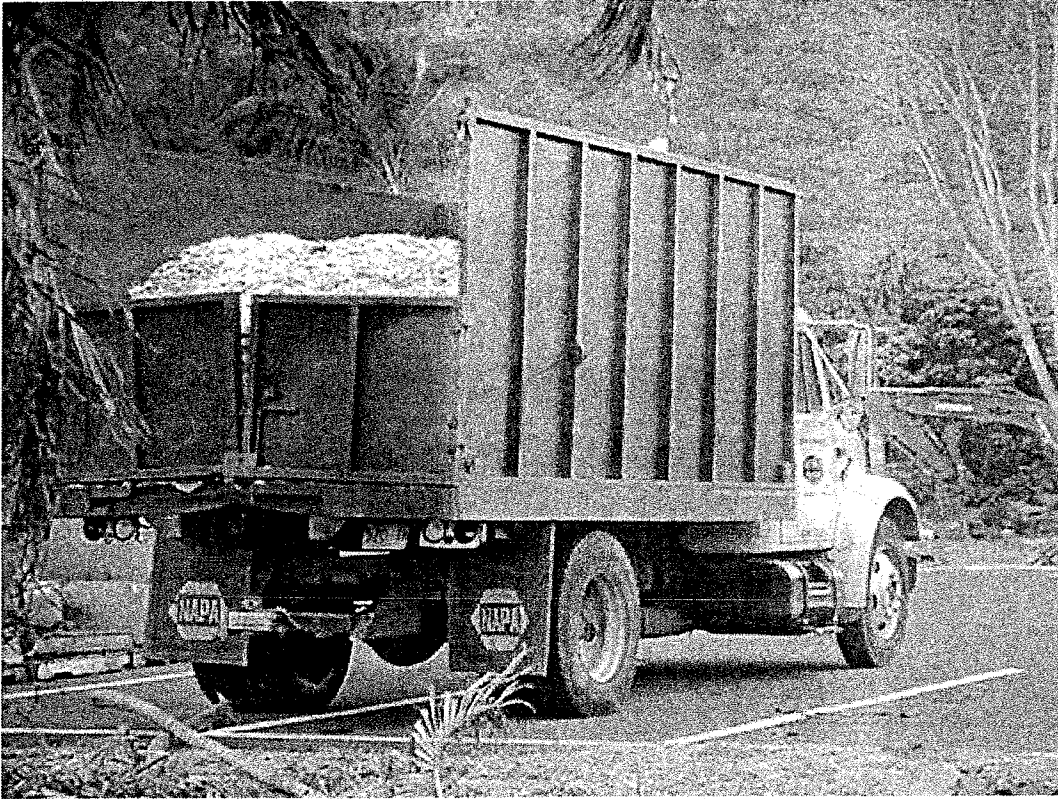
2/3/06
7:30 AM



2/6/06
5:15 p.m.



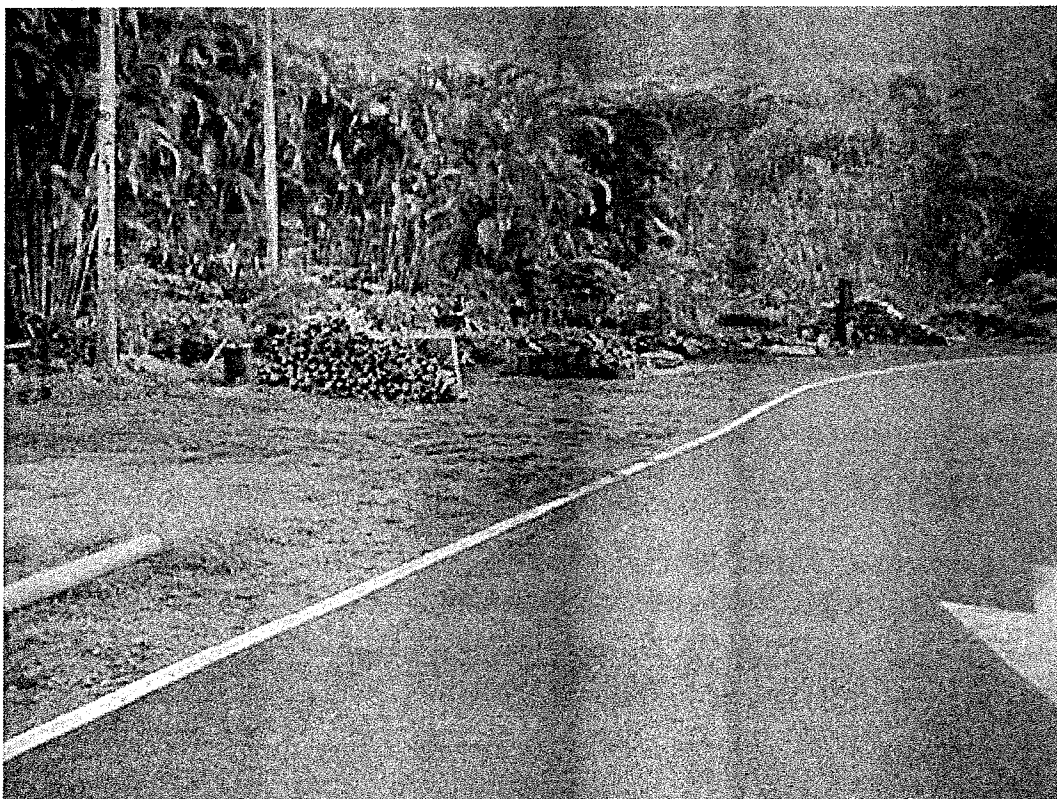
2/6/06
6:10 p.m.
EXHIBIT "F"



2/6/06
6:10 p.m.



2/6/06
5:15 p.m.



Stacks of Chopped Kiawe wood 2/6/06
on property.



Wood cutter along side of 2/6/06
chopped Kiawe wood on
property.



ALL Tree Service Truck

2/6/06

5:20 p.m.